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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte SHANTANU SARKAR,
JOHNNY C. CHAN, and WILFRED F. WONG

Appeal 2009-000513
Application 09/735,739
Technology Center 2400

Decided: February 26, 2010

Before KENNETH W. HAIRSTON, MAHSHID D. SAADAT,
and ELENi MANTIS MERCADER, *Administrative Patent Judges*.
HAIRSTON, *Administrative Patent Judge*.

DECISION ON APPEAL

This is an appeal under 35 U.S.C. §§ 6(b) and 134 from the final rejection of claims 1 to 5, 7, 9 to 13, 16 to 27, and 29 to 40. We will reverse.

The disclosed invention relates to a method and apparatus for establishing a communication session between stations without a common

communication protocol by using the protocol capabilities of an external transcoder (Figs. 1 to 7; Spec. 4, 7, 8, 10 to 12, and 15 to 17; Abstract).

Claim 1 is representative of the claims on appeal, and it reads as follows:

1. A method for establishing a call with a station using a transcoder, comprising:

communicating protocol capabilities to the station in response to initiation of the call, wherein the protocol capabilities comprise the protocol capability of at least one remotely located transcoder;

determining whether the protocol capability of the transcoder matches the protocol capability of the station;

selecting the transcoder from a plurality of transcoders based on a priority;

initiating a transfer of the call to the transcoder to establish a first link between the station and the transcoder; and

initiating establishment of a second link with the transcoder to enable media exchange with the station using the protocol capability of the transcoder.

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

Eastep	US 6,731,625 B1	May 4, 2004 (filed Feb. 10, 1997)
Korpi	US 6,785,223 B1	Aug. 31, 2004 (filed Apr. 22, 1999)
Hild	US 6,965,947 B1	Nov. 15, 2005 (filed Oct. 6, 2000)

The Examiner rejected claims 1, 3, 10, 16, 23, 25, 30, and 34 to 40 under 35 U.S.C. § 103(a) based upon the teachings of Hild and Korpi.

The Examiner rejected claims 2, 4, 5, 7, 9, 11 to 13, 17 to 22, 24, 26, 27, 29, and 31 to 33 under 35 U.S.C. § 103(a) based upon the teachings of Hild, Korpi, and Eastep.

Hild describes a method and apparatus for selecting the best transcoder from among a plurality of transcoders 408 at a server 402 to respond to a request from a client 400 (Fig. 4; col. 2, ll. 14 to 20; col. 4, ll. 47 to 51; Abstract). A transcoder is selected by the server 402 to translate content from content database 404 into a format that is suitable for use by the client (col. 2, ll. 16 to 20; col. 4, ll. 61 to 63). A transcoder table 410 is used by the server 402 to identify and select the appropriate transcoder to translate the content from the content database 404 into the desired content for the client 400 (col. 4, ll. 63 to 67). The selection of the transcoder is based on the request and in particular on the parameters included in the request (col. 6, ll. 21 to 23).

The Examiner acknowledges (Final Rej. 5) that Hild does not disclose “the use of a first link to establish the call and a second link to enable media exchange using the transcoder and the use of H.323 signaling protocol.”

According to the Examiner:

Korpi et al. from the same or similar fields of endeavor teach that it is known to provide the use of a first link to establish the call and a second link to enable media exchange using the transcoder and the use of H.323 signaling protocol (see the abstract which recite the use of a supervisory link and the media connection between the terminals in an H.323 network clearly anticipate the first link,

the second link and use of H.323 signaling protocol, respectively).
(Final Rej. 5)

Based upon the teachings of Korpi, the Examiner concludes (Final Rej. 5, 6) that it would have been obvious to one of ordinary skill in the art “to provide the use of a first link to establish the call and a second link to enable media exchange using the transcoder and the use of H.323 signaling protocol as taught by Korpi et al. in the communications method and apparatus of Hild et al.” for the advantages of “more efficiency and reliability for the system since the system can use the supervisory link to re-establish a connection that have gone down and the desirable added feature of using a standard protocol in the system.”

Appellants argue *inter alia* (App. Br. 11) that “the teachings of *Hild* regarding a request from a client do not disclose, teach, or suggest ‘communicating protocol capabilities . . . in response to initiation of the call.’” Appellants also argue that:

[w]ith respect to ‘initiating a transfer of the call to the transcoder to establish a first link between the station and the transcoder; and initiating establishment of a second link with the transcoder to enable media exchange with the station using the protocol capability of the transcoder’ as recited in Claim 1, the Examiner admits that *Hild* does not disclose these elements and relies on the Abstract of *Korpi*. *Korpi*, however, discloses ‘[p]rimary and secondary gatekeepers (104a, 106a) establish a supervisory link (1b) with one another while the media connection is set up between client terminals 112a,

114a).’ *Abstract* (emphasis added). Particularly, the teachings of *Korpi* regarding a supervisory link do not disclose, teach, or suggest establishment of a ‘first link . . . and initiating establishment of a second link . . . to enable media exchange’ as recited in Claim 1.

(App. Br. 12)

In response, the Examiner contends (Ans. 12, 13) that Hild’s “step of receiving a request including a set of characteristics whereby a transcoder is selected from the set of transcoders based on the best match to the set of characteristics content corresponds to the step of communicating protocol capabilities to the station,” and that the applied references teach or would have suggested to the skilled artisan the claimed first and second links.

Based upon the foregoing, we have to determine whether: (i) Hild’s method and system for finding the best transcoder to respond to a request by a client corresponds to the claimed step of communicating protocol capabilities to a station; and (ii) the applied references teach or would have suggested the claimed first and second links.

Although Hild selects a transcoder from the plurality of transcoders 408 to respond to the request from the client 400 (Fig. 4; col. 2, ll. 14 to 20; col. 4, ll. 47 to 51; *Abstract*), Hild’s response to the client’s request does not include “communicating protocol capabilities” of the transcoders to the client as recited in claim 1. Thus, we agree with Appellants’ argument (Reply Br. 2) that “*Hild* fails to disclose ‘communicating protocol capabilities to the station in response to initiation of the call.’” We also agree with the Appellants’ argument (Reply Br. 3) that the supervisory link 1b and media connection that are established in *Korpi* (*Abstract*) when one of the gatekeepers 104a and 106a fails do not correspond to the claimed

steps of initiating a transfer of a call to the transcoder to establish a first link between the station and the transcoder, and initiating establishment of a second link with the transcoder to enable media exchange with the station using the protocol capability of the transcoder.

In summary, we find that Hild is not concerned with “communicating protocol capabilities,” and the applied references do not teach or suggest the claimed first and second links. Thus, the obviousness rejection of claims 1, 3, 10, 16, 23, 25, 30, and 34 to 40 is reversed because the Examiner’s articulated reasons for modifying the teachings of the reference to Hild with the teachings of Korpi do not support a legal conclusion of obviousness. *KSR Int’l v. Teleflex, Inc.*, 550 U.S. 398, 418 (2007).

The obviousness rejection of claims 2, 4, 5, 7, 9, 11 to 13, 17 to 22, 24, 26, 27, 29, and 31 to 33 is reversed because the hybrid telecommunication teachings of Eastep do not cure the noted shortcomings in the teachings of Hild and Korpi.

The decision of the Examiner is reversed.

REVERSED

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